

FRANCHISES

Mountain Fuel Supply

Utah Power & Light Company

JWB Cable Company

AN ORDINANCE

AN ORDINANCE GRANTING TO MOUNTAIN FUEL SUPPLY COMPANY, A CORPORATION OF THE STATE OF UTAH, ITS SUCCESSORS OR ASSIGNS, A FRANCHISE FOR THE CONSTRUCTION AND OPERATION OF A GAS DISTRIBUTION SYSTEM IN CACHE COUNTY, STATE OF UTAH, FOR A TERM OF FIFTY YEARS, AND FIXING AND PRESCRIBING CONDITIONS AND TERMS THEREOF:

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CACHE ORDAIN AS FOLLOWS:

Section 1. That there is hereby granted to Mountain Fuel Supply Company, a Utah corporation, its successors or assigns, hereinafter called grantee, the right, privilege and franchise to construct, maintain and operate in the present and future roads, highways, streets, alleys, parkways and other public places in CACHE COUNTY, a system of gas mains, supply pipes and laterals with all necessary or desirable appurtenances, for the purpose of supplying gas for light, heat, power and other purposes to CACHE COUNTY, the inhabitants thereof, and persons and corporations beyond the boundaries thereof, for the term and under the conditions hereinafter set forth.

Section 2. All mains, pipes and laterals shall be so laid as to interfere as little as possible with traffic. The location of all mains, pipe lines and laterals shall be fixed under the supervision of the governing authorities of CACHE COUNTY. The grantee, before laying gas mains, supply pipes and laterals or other construction shall supply to the County Engineer maps and other necessary documents fully describing the nature of the proposed installation and setting forth the road, highway, street, alley, parkway or other public place upon or under which it is to be laid or constructed. The grantee shall restore all roads, highways, alleys, lanes, and other public places that may be opened or disturbed in construction or maintenance work by the grantee, to their original condition of safety and utility. In the event that any obstruction caused by said grantee shall remain longer than ten (10) days after notice to remove the same, or in case of neglect by said grantee to protect any dangerous places by proper guards, the County may remove such obstructions and protect such dangerous places at the expense of said grantee.

Section 3. Grantee may make and enforce reasonable rules and regulations in the conduct of its business and may require before furnishing service the execution of a contract therefore. Grantee shall have the right to contract with each consumer with reference to the installation of service pipe lines and the control of service pipes from the connection thereof with the supply lines of the grantee to and including the meter located on the consumer's premises. For the purpose of securing safety and good service to the consumer and in the public interest, grantee shall have the right to prescribe the sizes and kinds of the pipe to be used by the consumer in conveying gas on consumer's premises and shall have the right to refuse service to any consumer who neglects or refuses to comply with the rules and regulations of the grantee prescribing such conditions. Grantee shall have the right to classify the consumers of said gas in the corporate limits of said CACHE COUNTY according to time of use, character of use, quantity of gas required, and such

other conditions as may be reasonable; and subject to the regulations herein provided for, and the rights herein prescribed and such reasonable classifications, the grantee shall furnish gas without unjust discrimination and at a uniform price to all consumers of the same class, and to all persons along the established lines or mains of the grantee, who have properly observed such rules and regulations and acceded to the rights herein reserved to said grantee.

Section 4. The right is hereby granted unto the said grantee to furnish, distribute, supply, sell and require payment for gas to all persons and corporations in CACHE COUNTY through the said system of gas mains, supply pipes and laterals, and to do all things necessary and incident thereto, in accordance with the terms and conditions herein specified.

Section 5. The gas furnished by the grantee shall be sold and delivered to the consumers through standard meters, and CACHE COUNTY reserves the right to test the accuracy of any meter in service by a competent officer or agent appointed for that purpose by the Board of County Commissioners.

Section 6. The rates and prices which the grantee, its successors or assigns, may charge for gas and gas service furnished and delivered and the conditions of service under the terms of this franchise shall be fixed in accordance with the laws and Constitution of the State of Utah and the laws and Constitution of the United States.

Section 7. Permission is hereby granted unto the said Mountain Fuel Supply Company, its successor or assigns, to assign this franchise and all rights hereunder, and upon assignment of this franchise in accordance herewith, said successors or assigns, whether individuals or corporations, shall become entitled to all the rights and privileges, herein granted and shall assume all the obligations and duties herein provided.

Section 8. This franchise and all the rights herein granted shall terminate at the end of fifty years after the date of passage of this ordinance, unless sooner terminated by virtue of the provisions herein contained.

Section 9. This ordinance and the rights herein conferred shall be null and void unless within ninety (90) days after the passage and publication hereof the said grantee, its successors or assigns, shall file with, the County Clerk of CACHE COUNTY a written instrument, declaring its acceptance of the terms and conditions hereof and its intention to be bound by and perform the same, and unless construction of the gas system is begun within six months after passage and publication hereof.

Section 10. This franchise is granted in consideration of the acceptance by the grantee of the terms and conditions of this ordinance as herein provided, together with the payment by the grantee to the County within ninety (90) days after the passage and publication of said ordinance of the total sum of One Hundred Dollars (\$100.00).

Section 11. When the grantee shall make or cause to be made excavations, or shall place obstructions in any roads, highways, streets, alleys, parkways or other public places, the public shall be protected by barriers and lights placed, erected and maintained by the grantee; and in the event of injury to any person or damage to any property by reason of the construction, operation or maintenance of the gas distribution system of the grantee, the grantee shall indemnify and keep harmless CACHE COUNTY from any and all liability in connection therewith.

Section 12. This ordinance shall be published in the Herald Journal for one publication, of June 30, 1957 and shall be in full force and effect from and after the 30th day of June, 1957.

Passed by the Board of County Commissioners of the County of Cache this 28th day of June, 1957.

Member: Voting for

Byron Snow, Chairman

Attest:

Iver L. Larsen, Clerk

ORDINANCE NO. 66-03

AN ORDINANCE GRANTING TO UTAH POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS AN ELECTRIC LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE

THE BOARD OF COUNTY COMMISSIONERS OF CACHE COUNTY, UTAH ORDAINS AS FOLLOWS:

Section 1. That there is hereby granted to Utah Power & Light Company, its successors and assigns (herein called the "Grantee"), the right, privilege, or franchise until August 6, 2016, to construct, maintain and operate in, along, upon and across the present and future roads, highways and public places in Cache County, Utah, and its successors, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of transmitting and supplying electricity to said County, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

Section 2. Poles and towers shall be so erected as to interfere as little as possible with traffic over said roads and highways. The opening of roads and the erection of poles and towers shall be controlled by the ordinances of said County, but will not be made so as to unreasonably interfere with the proper operation of said lines.

Section 3. All lines constructed under this grant shall be constructed in accordance with established practices with respect to electrical construction.

Section 4. The County shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Grantee of its lines and appurtenances hereunder, and the acceptance of this franchise shall be deemed an agreement on the part of said Grantee, its successors and assigns, to indemnify said County and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to said County by reason of the neglect, default or misconduct of the Grantee in the construction, operation or maintenance of its lines and appurtenances hereunder.

Section 5. The Grantee shall file its written acceptance of this franchise with the County Clerk within thirty (30) days after its passage.

Section 6. This ordinance shall take effect as soon as it shall be published, or on the fifteenth day after its passage, whichever shall occur later.

Passed by the County Commissioners of Cache County, Utah this 9th day of August, 1966.

(Seal) Todd G. Weston, Chairman of the Board

of County Commissioners

ATTEST: Iver L. Larsen

County Clerk, Ex-Officio

Clerk of the Board of County Commissioners

CACHE COUNTY

ORDINANCE NO. 89-05

AN ORDINANCE GRANTING A FRANCHISE TO JWB CABLE COMPANY TO OPERATE, CONSTRUCT, AND MAINTAIN TELEVISION COAXIAL CABLES UPON, ALONG, THROUGH, OVER, AND UNDER PUBLIC STREETS, BRIDGES AND PUBLIC PLACES IN THE UNINCORPORATED AREAS OF CACHE COUNTY, UTAH.

The County Council of Cache County, Utah, in a regular meeting, lawful notice of which had been given, finds that the Cache County Council is authorized by law to adopt an ordinance granting a non-exclusive franchise for community cable television services and system to JWB Cable Company; that JWB Cable Company is not affiliated with or owned by Community Television of Utah, Inc., which is currently a franchisee for cable television services under Ordinance No. 81-05; that JWB Cable Company is a Utah corporation and in apparent good standing; and that the public would be benefited by the granting of a franchise for community cable television services in the unincorporated area of the county to JWB Cable Company.

Now therefore the County Council of Cache County, Utah, ORDAINS as follows:

Section 1. Grant of Franchise.

- A. A non-exclusive franchise is hereby granted to JWB Cable Company for a cable television system subject to the terms of this ordinance.
- B. The non-exclusive franchise granted includes the right, privilege, and authority to construct, erect, operate, and maintain lines of television coaxial cable, including poles, wires, conduits, manholes, electrical conductors, amplifiers, and fixtures where necessary, in, upon, along, across, through, and under the streets, rights-of-way, bridges, and other public places in the unincorporated areas of Cache County, Utah.
- C. For the purposes of this ordinance, the lines of television coaxial cable, including poles, wires, conduits, manholes, electrical conductors, amplifiers, and other equipment and fixtures of the cable television system shall collectively be designated as "CATV".

Section 2. Prior Approval.

- A. No CATV shall be installed on or in the property of the county without the prior written approval of the Building Inspector and Road Superintendent and such other county officer or employee as may be designated by the Cache County Executive.
- B. The application for such approval shall specify details and plans indicating the location and description of the CATV.

- C. A right-of-way encroachment permit shall be obtained by the franchisee from the county for all construction within public rights-of-way.
- D. The CATV system as currently installed in the unincorporated area of the county is hereby confirmed and approved.

Section 3. Maps.

The franchisee shall provide the county with current "as-constructed" maps and drawings of all CATV lines and facilities including underground lines in the area covered by this franchise. The franchisee shall deliver copies of such maps and drawings to the Cache County Building Inspector, Cache County Road Superintendent, and Cache County Surveyor.

Section 4. Pole Installations.

- A. CATV lines are to be placed on poles except where underground placement of lines is required under subparagraph C of this section.
- B. The poles to be used for the CATV lines shall be those erected and maintained by other public utilities when practical, providing satisfactory rental agreements can be entered into between the franchisee and such utility companies.
- C. In event such rental agreements are not able to be entered into, the franchisee shall have the right to install its own poles; provided, however, that the franchisee shall not be permitted to install poles or place CATV lines above the surface of the ground in subdivisions within the unincorporated areas of the county in which there presently exists any underground utilities or where the land use ordinance of the county requires underground utilities.
- D. Subject to any applicable state or federal regulations, the county shall have the right to make use, for any public purpose, of any poles or conduits controlled and maintained for the franchisee any public right-of-way, street, bridge, or other public place; provided, however, that:
 - 1. Such use by the county does not interfere with the use by the franchisee; and
 - 2. The county holds the franchisee harmless against and from any claims for damages or liabilities arising out of such use of said poles or conduits.

Third parties wishing to make use of any poles or conduits may do so only in the manner provided by law and by direct agreement with the franchisee.

Section 5. Conditions.

- A. All CATV lines and systems shall be so located and constructed as to cause minimum interference with the use of streets, public rights-of-way, and the reasonable convenience of property owners who adjoin such streets or rights-of-way.
- B. All CATV systems constructed and maintained under this ordinance shall comply with and meet the minimum standards of the building codes and land use ordinance of the county; the National Electrical Code; the National Safety Code, other uniform codes adopted by the county; and any applicable federal or state codes or standards for CATV systems and service.
- C. The franchisee, at its expense, shall replace and restore any streets, sidewalks, curbs, or gutters or other public property damaged or injured as a result of the construction,

maintenance, or installation of CATV systems.

- D. The franchisee shall, at all times employ reasonable care and shall construct, install, and maintain the CATV system with commonly accepted methods and devices for preventing failures and accidents which are likely to cause danger, injury, or nuisance to the public. The CATV system shall be constructed, installed, and maintained in a safe and reasonable condition.

Section 6. Future Ordinances.

The franchise granted by this ordinance shall be subject to all ordinances now in effect or that may be hereafter passed with regards to the use of public streets, highways, bridges, rights-of-way, and other public places in the county.

Section 7. Hold Harmless.

- A. The franchisee shall hold the county safe and harmless from any and all claims or damages arising by reason of negligence in the construction, installation, and maintenance of the CATV system including the costs of defense.
- B. The franchisee shall maintain public liability and property damage insurance in an amount agreed to by the Cache County Executive and the franchisee designating the county as a second party insured from the effective date of this ordinance.

Section 8. Term.

- A. The franchise granted by this ordinance, and all rights and authority pertaining thereto, shall be for a term of fifteen (15) years from the effective date of this ordinance.
- B. The franchise may be renewed for subsequent fifteen (15) year periods subject to a regular public proceeding as required by law.

Section 9. Rates.

- A. The franchisee shall file with the County Clerk a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including connection and service charges. Grantee shall similarly file with the County Clerk any modifications to the rate schedule at least thirty (30) days in advance of the effective date of such changes.
- B. Franchisee shall not make or grant any preference or advantage to any person nor subject any person to any prejudice, discrimination or disadvantage as to rates, charges, service, rules, or other matters; provided, however, that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any person or customer coming within such classification would be entitled or subject and further provided that connection and service charges may be waived or modified during promotional campaigns of the franchisee.

Section 10. Franchise Payments.

The franchise granted under this ordinance is granted upon the condition that franchisee shall pay to the county, in quarterly payments, commencing six (6) months after the effective date of this ordinance within the unincorporated area of the county a fee equivalent to 3% of the gross subscriber revenues derived from the regular subscriber monthly or other periodic service fees

from within the unincorporated area of the county. The franchisee shall provide an annual summary report verifying the gross subscriber revenues received during the preceding year.

Section 11. Amendments.

- A. The franchise granted hereunder may be amended from time to time by such ordinance to comply with any applicable federal or state regulations including specifically the regulations of the Federal Communications Commission. Such amendments should be made within one (1) year from the date that such regulations are adopted by the state or federal governments.
- B. It shall be the policy of the county to amend this franchise upon application from the franchisee, when necessary, to reasonably enable the franchisee to take advantage of any development in the field of transmission or television and radio signals which will afford it opportunity to more effectively, efficiently, or economically service its customers.

Section 12. Franchisee Office.

- A. The franchisee shall maintain a business office in Cache County, Utah to which subscribers may telephone or visit in person during regular business hours. The franchise shall notify the County Clerk of any change of address for its office.
- B. In the event subscribers or others have requests or complaints against the franchisee which are not resolved by direct contact, the requesting or complaining party may refer such unresolved request or complaint to the Office of the County Executive. Such request or complaint may be resolved by essentially the following procedures:
 - 1. Complaint shall be first to the franchisee through its manager or designated officer or employee at its local office.
 - 2. Any complaint not resolved within seven (7) days may then be reported to the Cache County Executive who shall give notice to the franchisee.
 - 3. Upon thirty (30) days written notice to the franchisee, the County Executive may conduct a hearing for the purpose of allowing all interested persons including the complainant and representatives of the franchisee to appear and make any statement or submit any documents or exhibits as may be reasonably required. The principles of due process shall be applied at all times with respect to such proceedings.

Section 13. Termination and Removal.

Upon expiration of the franchise, if the franchisee shall not have acquired an extension or renewal thereof and accepted the same, it shall have the right to enter upon the streets, bridges, rights-of-way, and other public areas of the unincorporated areas of the county for the purposes of removing the CATV system. In so removing the CATV system, the franchisee shall, at its expense, repair and restore the county property to its prior condition insofar as practical.

Section 14. Transfers or Assignments.

The franchisee shall not transfer or assign the franchise granted hereunder, or any rights pertaining thereto, to any other party without the prior written approval of the county. Such approval shall not be unreasonably withheld. This section shall not preclude the subjection of the CATV system as collateral to secure any loans or any other business transaction of the franchisee.

Section 15. Compliance with Applicable Law.

The franchise shall at all times during the term of the franchisee comply with all applicable federal, state, and county laws and ordinances.

Section 16. Restrictions.

- A. From and after the effective date of this ordinance, it shall be unlawful for any person to construct, install, or maintain a CATV within any public street, bridge, right-of-way, or other public place in the unincorporated areas of the county or within any privately owned area within the unincorporated areas of the county which have not as yet become a public street but which is designated or delineated as a proposed public street or right-of-way on any tentative subdivision map approved by the county, any CATV system unless a franchise authorizing such use has been first obtained and is in full force and effect.
- B. It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, conductively, or otherwise with any part of the franchised CATV system within the unincorporated areas of the county for the purpose of enabling that person to receive any signal from the CATV system without the prior consent of the franchisee.
- C. It shall be unlawful for any person, without the consent of the franchisee, to willfully tamper with, remove, or injure the CATV system or any part thereof.
- D. Any person violating the provisions of this ordinance shall be guilty of a Class B Misdemeanor for each and every day of the violation and subject to penalty as provided by law.

Section 17. Severability.

If any part of this ordinance is for any reason held invalid by the decision of any court or regulatory agency of competent jurisdiction, such decision shall not render invalid the remaining portion of the ordinance. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any consideration of other obligations required of the franchisee.

Section 18. Repealer.

All ordinances, or any parts thereof, in conflict with this ordinance are hereby repealed and superseded by this ordinance to the extent of such conflict.

Section 19. Effective Date.

This ordinance shall take effect immediately upon adoption and publication in the manner provided by law.

This ordinance was adopted by the Cache County Council on the 15th day of August, 1989, upon the following vote:

Voting in Favor: Funk Voting Against: None

Weston

Gibbons

Kotter

Monson

Morse
Skanchy

CACHE COUNTY COUNCIL

By:

Dennis Funk, Chairman

ATTESTED BY:

Seth S. Allen

Cache County Clerk

Publication Date: August 24, 1989